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10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12 DEZARAE MUNOZ, individually and as  
13 successor-in-interest to Estate of ULYSSES  
14 MUNOZ AYALA (Decedent),

15 Plaintiff,

16 vs.

17 SHERIFF CHAD BIANCO, an Individual;  
18 Sergeant TODD JOHNSON, an Individual;  
19 Correctional Deputy ABDUL FAR, an  
20 Individual; Correctional Deputy MORGAN  
21 MCCANDLESS, an Individual; Correctional  
22 Corporal BENJAMIN SEAGRAVES-  
23 GLADNEY, an Individual; Correctional Deputy  
24 KEVIN JONES, an Individual; Correctional  
25 Deputy PHILLIP DIEFENDERFER, an  
26 Individual; Correctional Deputy THOMAS  
27 KOLB, an Individual; Correctional Deputy  
28 MIGUE TRIANA, an Individual; Corporal KAI  
GALLARDO, an Individual; RIVERSIDE  
COUNTY SHERIFF'S DEPARTMENT;  
COUNTY OF RIVERSIDE and DOES 1- 25,  
Inclusive,

Defendant(s).

**CASE NUMBER: 5:23-cv-02063-JGB-DTB**

**NOTICE OF NON-OPOSITION TO  
DEFENDANT'S MOTION TO STRIKE  
PORTIONS OF PLAINTIFF'S  
COMPLAINT**

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11           **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS**  
12           **OF RECORD:**

13           **PLEASE TAKE NOTICE** that Plaintiff DEZARAE MUÑOZ, individually and as  
14 successor-in-interest to the Estate of ULYSSES MUÑOZ AYALA (“Plaintiff”), by and through  
15 her counsel, hereby submits this Notice of Non-Opposition to the Motion to Dismiss Portions of  
16 Plaintiff’s Complaint [Dkt. No. 45] filed by Defendants SHERIFF CHAD BIANCO,  
17 RIVERSIDE COUNTY SHERIFF’S DEPARTMENT, COIS BRYD DETENTION CENTER,  
18 and individually named defendants, currently set for hearing on October 7, 2024 at 9:00 a.m.  
19 before this Court.

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21           **1. Procedural Background**

22 On October 10, 2023, Plaintiff filed a Complaint alleging violations of constitutional rights  
23 under 42 U.S.C. § 1983 and state law claims including Negligence and Intentional Infliction of  
24 Emotional Distress. Defendants subsequently filed their Motion to Dismiss Portions of  
25 Plaintiff’s Complaint on August 15, 2024, contending that several of Plaintiff’s claims fail to  
26 state a claim upon which relief can be granted, particularly:

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28           **NOTICE OF NON-OPPOSITION TO MOTION TO STRIKE PORTIONS OF**  
              **PLAINTIFF’S COMPLAINT**

- 1     • The inclusion of COIS BRYD Detention Center as a defendant under §1983.
- 2
- 3     • Claims against Riverside County Sheriff's Department and Sheriff Chad Bianco as improper
- 4         defendants under §1983 for certain causes of action.
- 5     • Claims under the California Constitution for which monetary relief is unavailable.
- 6     • Misidentification of Riverside County as a defendant in certain claims, where the County
- 7         was not properly named or served.
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9              Defendants also argue that Plaintiff's Fifth and Sixth causes of action fail to establish a  
10         statutory basis for liability against Riverside County Sheriff's Department.

11       **2. Plaintiff's Decision Not to Oppose the Motion**

12              After careful review of Defendants' Motion, including the grounds asserted for dismissal  
13         and the applicable legal standards, Plaintiff has determined that there is no legal basis upon which  
14         to oppose the relief requested by Defendants in this Motion. Plaintiff acknowledges that certain  
15         portions of the Complaint, as currently pleaded, may not survive the scrutiny of Rule 12(b)(6)  
16         based on established legal precedent, particularly:

- 17     • The argument that COIS BRYD Detention Center is not a "person" under 42 U.S.C. §1983 is  
18         well-founded under the reasoning of *Monell v. Department of Social Services* and  
19         subsequent case law.
- 20     • Similarly, claims against the Riverside County Sheriff's Department and Sheriff Chad  
21         Bianco under §1983 based on respondeat superior theories are not actionable in light of  
22         *Monell*.
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1     • Defendants' argument that California Constitutional claims do not permit monetary  
2       damages appears consistent with prevailing law, as cited in Roy v. County of Los Angeles  
3       and other cases.

4 Plaintiff does not oppose Defendants' request to dismiss these claims without leave to amend,  
5 acknowledging that further amendment would likely be futile in addressing the identified legal  
6 deficiencies.

7 **3. Reservation of Rights**

8 While Plaintiff does not oppose Defendants' Motion to Dismiss the specific portions of the  
9 Complaint identified therein, Plaintiff expressly reserves the right to pursue any remaining  
10 claims and causes of action that are not subject to this Motion. Plaintiff further reserves the  
11 right to amend the Complaint as necessary with respect to any surviving claims and to engage  
12 in discovery in order to pursue those claims on the merits.

13 Plaintiff also reserves the right to file future motions or respond to any subsequent filings in  
14 this case as appropriate.

16 **4. Conclusion**

17 For the foregoing reasons, Plaintiff respectfully notifies the Court and all parties that there is  
18 no opposition to the Defendants' Motion to Dismiss Portions of Plaintiff's Complaint. Plaintiff  
19 requests that the Court proceed with ruling on the Motion in accordance with the schedule and  
20 the applicable law.

21     ///

22 Respectfully Submitted,

KHASHAN Law Firm, APC

23 September 22, 2024

24 *Lewis Khashan, Esq.*  
25 Lewis Khashan, Esq.  
Attorney for Plaintiff